



# Insurance Department

State of Utah

GARY R. HERBERT

Governor

SPENCER J. COX

Lieutenant Governor

TODD E. KISER

Acting Commissioner

## State of Utah Title and Escrow Commission Meeting Meeting Information

**Date:** **October 20**, 2014    **Time:** **After 9AM Rule hearing**    **Place:** East Bldg, Copper Rm

### MEMBERS

#### COMMISSION MEMBERS

Chair, Jeff Wiener (*Insurer, Salt Lake Cnty*)      Matt Sager, (*Insurer, Maricopa Cnty, AZ*)  
Co-Chair, Larry Blake (*Agency, Washington Cnty*)      Kirk Smith, (*Agency, Weber Cnty*)  
Sylvia Andersen, (*Public Member, Salt Lake Cnty*)

#### DEPARTMENT STAFF

Perri Babalis, *AG Counsel*      Brett Barratt, *Deputy Comm.*      Mark Kleinfield, *ALJ*  
Suzette Green-Wright, *MC Dir.*      Tammy Greening, *Examiner*      Jilene Whitby, *PIO Recorder*

### AGENDA

#### General Session: (Open to the Public)

- **Welcome** / Jeff Wiener, Chair
- **Adopt Minutes of Previous Meeting**
- **Reports**
  - Concur with Licensee Report / Tammy
  - Concur with Complaint & Enforcement Report for September / Suzette
  - Request for Dual Licensee Expedited Request: None
  - Request for Attorney Exemption: None
- **Administrative Proceedings Action** / Mark Kleinfield, ALJ
  - **Stipulation & Order:**
    - South Eastern Utah T: ECase 3535
    - Sutherland Title Co: ECase 3534
    - 1<sup>st</sup> Liberty Title, LC: Ecase 3526
    - Lesley Ann Ulibarri: Ecase 3512
  - Request for a Hearing: None
  - Order to Show Cause: None
  - **Informal Adjudicative Proceeding & Order:**
  - Notice of Formal Adjudicative Proceeding: None
- **New Business**
- **Old Business**
  - Results of Rule Hearing for R592-16: Prohibited Escrow Settlement Closing Transactions; and Next Step / Brett
  - Discuss Retention of Title and Escrow Records and Proposed Bulletin / Matt/ Jeff/ Brett/ Perri
  - Legislative Update / Brett
- **Other Business**
- **Hot Topics**
  - Property Profiles (James Seaman)

#### Executive Session (Closed to Public)

- **Adjourn:**
- **Next Meeting:** **November 10**, 2014, Copper Room

#### 2014 Meeting Schedule

Jul 14      Aug 11      Sept 8      **Oct 20**      Nov 10      Dec 8

# Title Agency Monthly Report

For the month of September, 2014

## License Renewal

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
6542	BASIN LAND TITLE & ABSTRACT, INC	5/16/2002	9/30/2016			TE
6542	BASIN LAND TITLE & ABSTRACT, INC	5/16/2002	9/30/2016			TS
6575	MERIDIAN TITLE COMPANY	9/27/2002	9/30/2016			TE
6575	MERIDIAN TITLE COMPANY	9/27/2002	9/30/2016			TS
11740	UNITED TITLE SERVICES	9/16/2002	9/30/2016			TE
11740	UNITED TITLE SERVICES	9/16/2002	9/30/2016			TMR
11740	UNITED TITLE SERVICES	9/16/2002	9/30/2016			TS
7815	WASATCH TITLE INSURANCE AGENCY, LLC	5/16/2002	9/30/2016			TE
7815	WASATCH TITLE INSURANCE AGENCY, LLC	5/16/2002	9/30/2016			TS

## Reinstated License

Agy_ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
6402	GUARDIAN TITLE COMPANY OF UTAH	5/16/2002	7/31/2016	8/30/2014	9/11/2014	TE
6402	GUARDIAN TITLE COMPANY OF UTAH	5/16/2002	7/31/2016	8/30/2014	9/11/2014	TS

# Title Individual Monthly Report

For the month of: September, 2014

## New License

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
1582890	MEGAN HILL MOSER	09-17-2014	02-28-2017			TMR

## License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
45459	PAUL D NEWTON	05-16-2002	09-30-2016			TS
1490140	CLAIRE V BIENIEK	06-18-2012	09-30-2016			TS
37010	BEN R BROUGH	05-16-2002	09-30-2016			TS
45888	Michelle Burns	08-04-2003	09-30-2016			TE
45888	Michelle Burns	08-04-2003	09-30-2016			TS
1405262	PAMELA BUSK	09-02-2010	09-30-2016			TE
121979	CHRISTOPHER KYLE CAIN	11-22-2005	09-30-2016			TE
121979	CHRISTOPHER KYLE CAIN	11-22-2005	09-30-2016			TS
35042	CARRIE J CHAMPION	05-16-2002	09-30-2016			TE
39019	DANNY O EASTBURN	05-16-2002	09-30-2016			TS
44017	D CAMERON COURT	05-16-2002	09-30-2016			TE
122022	JAMIE L HUDSON	11-30-2005	09-30-2016			TE
1416783	Sue A Cragun	02-24-2010	09-30-2016			TE
1416783	Sue A Cragun	02-24-2010	09-30-2016			TMR
1436378	MATTHEW N DAVID	01-04-2012	09-30-2016			TMR

# Title Individual Monthly Report

For the month of: September, 2014

## License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
37922	JAY DAVIS	05-16-2002	09-30-2016			TE
37922	JAY DAVIS	05-16-2002	09-30-2016			TS
95772	JUDITH H DAVIS	11-04-2003	09-30-2016			TE
40752	MICHELLE A. DEMMAN	05-16-2002	09-30-2016			TE
75484	CLAIRE A DREW	05-16-2002	09-30-2016			TE
39019	DANNY O EASTBURN	05-16-2002	09-30-2016			TE
30560	KATHALEEN H IVINS	05-16-2002	09-30-2016			TMR
81935	JODI A ESKELSEN	09-30-2002	09-30-2016			TE
79914	DAWN RENAE EDDY	09-09-2002	09-30-2016			TE
45459	PAUL D NEWTON	05-16-2002	09-30-2016			TE
36980	TRUDI K FENNER	05-16-2002	09-30-2016			TE
73813	DAVID B FREEMAN	05-16-2002	09-30-2016			TE
32186	MERVIN LEVI GLINES	05-16-2002	09-30-2016			TE
32186	MERVIN LEVI GLINES	05-16-2002	09-30-2016			TS
70838	THERESA L GREEN	05-16-2002	09-30-2016			TE
54171	BRAD J HAYS	05-16-2002	09-30-2016			TS
26452	Annette Heinz	05-16-2002	09-30-2016			TE
95183	MARY L HIPWELL	10-15-2003	09-30-2016			TE
100246	DANIELLE E BERTOLDI	04-02-2004	09-30-2016			TE
30560	KATHALEEN H IVINS	05-16-2002	09-30-2016			TE

Tuesday, October 07, 2014

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# Title Individual Monthly Report

For the month of: September, 2014

## License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
44017	D CAMERON COURT	05-16-2002	09-30-2016			TMR
133340	NICOLE JEX	08-30-2006	09-30-2016			TE
27470	KATRINA LYON	05-16-2002	09-30-2016			TE
38278	JILL S MADDOX	05-16-2002	09-30-2016			TE
134361	MELANIE O MAXFIELD	09-15-2006	09-30-2016			TE
77253	LIMHI MENESES	05-17-2002	09-30-2016			TE
40598	CHRISTOPHER M MERBACK	05-16-2002	09-30-2016			TS
42398	RACHEL J MILLER	05-16-2002	09-30-2016			TE
38144	ROBIN L MORAN	05-16-2002	09-30-2016			TE
40640	ALFRED J NEWMAN	05-16-2002	09-30-2016			TE
31836	TRACY COTTLE	05-16-2002	09-30-2016			TE
1412554	JOHN B ERICKSON	02-03-2010	09-30-2016			TE
125360	REGINA M SNOW	02-21-2006	09-30-2016			TE
39946	CHRISTINA S OLSEN	05-16-2002	09-30-2016			TE
75761	BARRY C ORTON	05-16-2002	09-30-2016			TE
75761	BARRY C ORTON	05-16-2002	09-30-2016			TS
37164	DUANE J PHILLIPS	05-16-2002	09-30-2016			TE
37164	DUANE J PHILLIPS	05-16-2002	09-30-2016			TS
126134	BRANDON LEE PLATT	03-08-2006	09-30-2016			TS
124310	Julie D Rhodes	01-25-2006	09-30-2016			TE

Tuesday, October 07, 2014

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# Title Individual Monthly Report

For the month of: September, 2014

## License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
45979	WAYNE T RUSSELL	05-16-2002	09-30-2016			TE
42040	HOLLY M SHAFER	05-16-2002	09-30-2016			TS
31622	JEFFERY S SIMONSEN	05-16-2002	09-30-2016			TE
31622	JEFFERY S SIMONSEN	05-16-2002	09-30-2016			TS
123673	CHRISTINA M STODDARD	01-19-2006	09-30-2016			TMR
137816	SETH G. STODDARD	07-22-2008	09-30-2016			TE
8414	STEPHEN R TUTTLE	05-16-2002	09-30-2016			TE
8414	STEPHEN R TUTTLE	05-16-2002	09-30-2016			TS
44741	JASON A VANDENBERG	05-16-2002	09-30-2016			TE
105892	Angie Rae Watson	09-20-2004	09-30-2016			TE
78391	RYANN K WEBB	06-21-2002	09-30-2016			TE
19422	MICHAEL J WELKER	05-16-2002	09-30-2016			TE
19422	MICHAEL J WELKER	05-16-2002	09-30-2016			TMR
42040	HOLLY M SHAFER	05-16-2002	09-30-2016			TE
40640	ALFRED J NEWMAN	05-16-2002	09-30-2016			TS
35205	CORINNE SCHROADER WOODWARD	05-16-2002	09-30-2016			TE
19422	MICHAEL J WELKER	05-16-2002	09-30-2016			TS

# Title Individual Monthly Report

For the month of: September, 2014

## Late License Renewal

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
80611	KELLY A SILVESTER	08-23-2002	09-30-2016			TS

## Lapse Licenses

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
31726	LAYNE T SISK	05-16-2002	08-31-2014	9/30/2014		TE
35472	ROBERT R SMITH	05-16-2002	08-31-2014	9/30/2014		TS
50065	SHAWN A PARKER	05-16-2002	08-31-2014	9/30/2014		TE
50065	SHAWN A PARKER	05-16-2002	08-31-2014	9/30/2014		TS
65884	CONSTANCE JEAN VANROOSEDAAL	06-22-2004	08-31-2014	9/30/2014		TE
77484	SANDRA W DIXON	05-23-2002	08-31-2014	9/30/2014		TE
93877	SHERRY L MCGEARY	09-05-2003	08-31-2014	9/30/2014		TMR
122149	CARRIE B HOWELL	12-06-2005	08-31-2014	9/30/2014		TE
137288	TODD NICHOLAS HALLOCK	11-27-2006	08-31-2014	9/30/2014		TE
137288	TODD NICHOLAS HALLOCK	11-27-2006	08-31-2014	9/30/2014		TS
1489308	MARY LYNN MARQUEZ	04-05-2012	08-31-2014	9/30/2014		TE
1489308	MARY LYNN MARQUEZ	04-05-2012	08-31-2014	9/30/2014		TMR
1489308	MARY LYNN MARQUEZ	04-05-2012	08-31-2014	9/30/2014		TS
1398037	WILLIAM JEFFERY ROBERTS	09-14-2009	08-31-2014	9/30/2014		TMR

# Title Individual Monthly Report

For the month of: September, 2014

## Reinstated License

Indv ID	Name	Issue Date	Expiration Date	Lapse Date	Reactivation Date	Qualification
140692	CASEY JAY WEESE	02-23-2007	12-31-2015	1/30/2014	9/23/2014	TE
39048	MINDY S BLACKBURN	05-16-2002	05-31-2017	12/30/2007	9/16/2014	TE
34627	ROBYN SUE JENSEN	05-16-2002	04-30-2017	5/30/2009	9/2/2014	TE
45341	PAUL M KING	05-16-2002	07-31-2016	8/30/2014	9/19/2014	TE
45341	PAUL M KING	05-16-2002	07-31-2016	8/30/2014	9/19/2014	TS
74876	SCOTT A MORGAN	05-16-2002	08-31-2016	9/30/2014	9/16/2014	TE
31254	DOUGLAS W PINDER	05-16-2002	08-31-2016	9/30/2014	9/11/2014	TS
140692	CASEY JAY WEESE	02-23-2007	12-31-2015	1/30/2014	9/23/2014	TS



GARY D. JOSEPHSON #5299  
Assistant Attorney General  
SEAN D. REYES #7969  
Attorney General  
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Salt Lake City, UT 84114  
Telephone: 801-366-0375  
Facsimile: 801-366-0378

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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

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UTAH INSURANCE DEPARTMENT,

Complainant,

v.

SOUTH EASTERN UTAH TITLE  
COMPANY, License # 3042,  
2190 Navajo Heights  
Moab, UT 84532

Respondent.

**STIPULATION AND ORDER**

Docket No. 2014-101 LC

Enf. Case No. 3535

Mark E. Kleinfield  
Administrative Law Judge

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**STIPULATION**

The Utah Insurance Department ("Department"), by and through its legal counsel, and South Eastern Title Company, a Utah licensed title insurance agency ("Respondent"), hereby stipulate and agree as follows:

1. Respondent is an active Utah licensed title insurance agency authorized to do business in the state of Utah under License No. 3042. Respondent's business address is 2190 Navajo Heights, Moab, UT 84532.

2. The Department has jurisdiction over the parties and subject matter of this administrative action.

3. Respondent acknowledges notice of agency action pursuant to Utah Code § 63G-4-210; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code § 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

4. Respondent knows of its right to be represented by legal counsel and waives this right by either having sought the advice of legal counsel or by having voluntarily chosen not to do so.

5. This signed Stipulation and the signed and adopted Order by both the Commissioner and the Title and Escrow Commission, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

6. If an administrative hearing were held, the Department could offer evidence that would support the Findings of Fact presented below; therefore, the Findings of Fact and Conclusions of Law presented below are agreed to.

7. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter addressed herein.

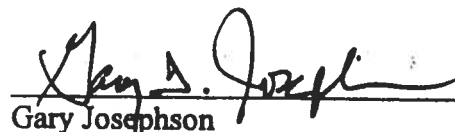
8. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.

9. Respondent enters into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.

10. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

Dated this 23<sup>rd</sup> day of September 2014.

  
SOUTH EASTERN TITLE COMPANY  
Jerry Frandsen, President

Sept. 30<sup>th</sup>, 2014   
Gary Josephson  
Assistant Attorney General  
Utah Insurance Department

Based upon the foregoing Stipulation and Department file, the Presiding Officer makes the following Findings of Fact:

**FINDINGS OF FACT**

1. On May 6, 2014, the Department compiled a list of all title producers who had renewed their licenses during the month of April, 2014. After reviewing the list and SIRCON licensing, it was determined that Respondent's license had lapsed on March 31, 2014 and was not reinstated until April 11, 2014. During the period of license lapse, Respondent's agents were not associated to it.

2 The Department investigator requested from Respondent a narrative statement of all title business conducted between March 31, 2014 and April 11, 2014.

3. On July 10, 2014, Respondent's president, Jerry Frandsen, replies and stated that the company conducted 18 closings and issued 26 commitments between March 31, 2014 and April 11, 2014.

4. Respondent had a similar license lapse in 2012. Mr. Frandsen was cooperative during the investigation, and took full responsibility for the lapse.

5. Respondent has agreed an administrative forfeiture of \$1,500.00. In addition, Respondent will prepare and submit a comprehensive business plan that outlines specific policies and procedures to be put in place to ensure future compliance with license renewal requirements.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

#### **CONCLUSIONS OF LAW**

1. Utah Code Section 31A-23a-103 requires every insurance producer to have an active license to conduct any title business in Utah.

2. Utah Code Section 31A-23a-302 requires an agency to designate with the Department any individual acting on the agency's behalf.

3. Respondent violated the above referenced statutes in conducting title business during the period its license was lapsed.

4. The proposed administrative forfeiture of \$1,500.00, and the requirement that Respondent submit to the Department a comprehensive business plan outlining procedures and policies that will ensure future compliance with Utah law and Department rules are appropriate in this matter.

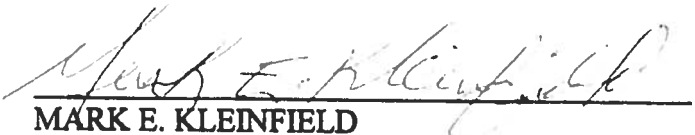
**RECOMMENDED ORDER**

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. Respondent, South Eastern Title Company is assessed an administrative forfeiture in the amount of \$1,500.00 to be paid to the Department within 30 days of the date the Commission's Order.
2. Within 90 days from the fully signed and adopted Order, Respondent shall submit a comprehensive business plan outlining specific procedures and policies it shall put in place regarding its license renewals and associations, ensuring future compliance with Utah insurance laws and Department rules.

DATED this 29<sup>th</sup> day of September, 2014.

TODD E. KISER  
Insurance Commissioner

  
MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department

**ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY**

By a vote of \_\_\_\_\_ to \_\_\_\_\_, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended above.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
JEFFERY D. WIENER, Chairman  
Title and Escrow Commission

**NOTIFICATION TO RESPONDENT**

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on this date, a true and correct copy of the  
**Stipulation and Order** were mailed, postage prepaid, to the following:

**SOUTH EASTERN UTAH TITLE COMPANY  
2190 NAVAJO HEIGHTS  
MOAB, UT 84532**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
LINDA HARDY  
UTAH INSURANCE DEPARTMENT  
STATE OFFICE BUILDING, ROOM 3110  
SALT LAKE CITY, UT 84114-6901 SOUTH

GARY D. JOSEPHSON #5299  
Assistant Attorney General  
SEAN D. REYES #7969  
Attorney General  
Attorneys for Utah Insurance Department  
160 East 300 South, Fifth Floor  
PO Box 140874  
Salt Lake City, UT 84114  
Telephone: 801-366-0375  
Facsimile: 801-366-0378

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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

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UTAH INSURANCE DEPARTMENT,

Complainant,

v.

SUTHERLAND TITLE COMPANY

License # 4641

920 East Oak Wood Lane, Suite 100

Salt Lake City, UT 84117

Respondent.

**STIPULATION AND ORDER**

Docket No. 2014-100 LC

Enf. Case No. 3534

Mark E. Kleinfeld  
Administrative Law Judge

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**STIPULATION**

The Utah Insurance Department ("Department"), by and through its legal counsel, and Sutherland Title Company, a Utah licensed title insurance agency ("Respondent"), hereby stipulate and agree as follows:

1. Respondent is an active Utah licensed title insurance agency authorized to do business in the state of Utah under License No. 4641. Respondent's business address is 920 East Oak Wood Lane, Suite 100, Salt Lake City, UT 84117.

2. The Department has jurisdiction over the parties and subject matter of this



administrative action.

3. Respondent acknowledges notice of agency action pursuant to Utah Code § 63G-4-201; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code § 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

4. Respondent knows of its right to be represented by legal counsel and waives this right by either having sought the advice of legal counsel or by having voluntarily chosen not to do so.

5. This signed Stipulation and the signed and adopted Order by both the Commissioner and the Title and Escrow Commission, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

6. If an administrative hearing were held, the Department could offer evidence that would support the Findings of Fact presented below; therefore, the Findings of Fact and Conclusions of Law presented below are accepted by the parties.

7. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.

8. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.


9. Respondent enters into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.

10. The persons signing this Stipulation on behalf of the named parties hereby affirm

that they are authorized to sign and bind the parties.

Dated this 22 day of September, 2014.

  
SUTHERLAND TITLE COMPANY  
Justin Sutherland, Authorized Representative

Sept. 29, 2014   
UTAH INSURANCE DEPARTMENT  
Gary D. Josephson, Assistant Attorney General

Based upon the foregoing Stipulation and Department file, the Presiding Officer makes the following Findings of Fact:

**FINDINGS OF FACT**

1. On April 4, 2014, the Department compiled a list of all title producers who had renewed their licenses during the month of March 2014. After reviewing the list and SIRCON licensing, it was determined that Respondent's license had lapsed on February 28, 2014 and was reinstated March 7, 2014. Respondent's producers were re-associated on March 12, 2014.
2. On June 10, 2014, the Department investigator requested from Respondent a narrative statement of all title business conducted between February 28, 2014 and March 7, 2014.
3. On June 30, 2014, Justin Sutherland replied and stated that the company conducted 11 closings and issued four commitments on behalf of the insurer between February 28, 2014 and March 7, 2014.

4. Respondent was cooperative and helpful during the investigation, and took full responsibility for the lapse.

5. Respondent has agreed an administrative forfeiture of \$1,500.00. In addition, Respondent will prepare and submit a comprehensive business plan that outlines specific policies and procedures to be put in place to ensure future compliance with license renewal requirements.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

#### **CONCLUSIONS OF LAW**

1. Utah Code Section 31A-23a-103 requires every insurance producer to have an active license to conduct any title business in Utah.

2. Utah Code Section 31A-23a-302 requires an agency to designate with the Department any individual acting on the agency's behalf.

3. Respondent violated the above statutes in conducting title business during the period when its license was lapsed.

4. The proposed administrative forfeiture of \$1,500.00, and the requirement that Respondent submit to the Department a comprehensive business plan outlining procedures and policies ensuring future compliance with Utah law and Department rules are appropriate in this matter.

#### **RECOMMENDED ORDER**


IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. Respondent, Sutherland Title Company shall be assessed an administrative forfeiture in the amount of \$1,500.00 to be paid to the Department within 30 days of the date of the Commission's Order.

2. Within 90 days of the full signing of this Order, Respondent shall submit a comprehensive business plan outlining specific procedures and policies it shall put in place regarding its license renewals and associations ensuring future compliance with Utah statutes and Department rules.

DATED this 29<sup>th</sup> day of September, 2014.

TODD E. KISER  
Insurance Commissioner

  
MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department

**ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY**

By a vote of \_\_\_\_\_ to \_\_\_\_\_, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended above.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
JEFFERY D. WIENER, Chairman  
Title and Escrow Commission

### **NOTIFICATION TO RESPONDENT**

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on this date, a true and correct copy of the  
**Stipulation and Order** were mailed, postage prepaid, to the following:

JUSTIN SUTHERLAND  
SUTHERLAND TITLE COMPANY  
920 EAST OAK WOOD LANE, SUITE 100  
SALT LAKE CITY UT 84117

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
LINDA HARDY  
UTAH INSURANCE DEPARTMENT  
STATE OFFICE BUILDING, ROOM 3110  
SALT LAKE CITY, UT 84114-6901

GARY D. JOSEPHSON #5299  
Assistant Attorney General  
SEAN D. REYES #7969  
Attorney General  
Attorneys for Utah Insurance Department  
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Salt Lake City, UT 84114  
Telephone: 801-366-0375  
Facsimile: 801-366-0378

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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

UTAH INSURANCE DEPARTMENT,  Complainant,  v.  1 <sup>st</sup> LIBERTY TITLE, LC, License # 371709, 9488 Union Park Square, Sandy, UT 84070  Respondent.	<b>STIPULATION AND ORDER</b>  Docket No. 2014-092 PC  Enf. Case No. 3526  Mark E. Kleinfeld Administrative Law Judge
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**STIPULATION**

The Utah Insurance Department ("Department"), by and through its legal counsel, and 1<sup>st</sup> Liberty Title, LC, a Utah licensed title insurance agency ("Respondent"), hereby stipulate and agree as follows:

1. Respondent is an active Utah licensed title insurance agency authorized to do business in the state of Utah under License No. 371709. Respondent's business address is 9488 Union Park Square, Sandy, UT 84070.
2. The Department has jurisdiction over the parties and subject matter of this administrative action.

3. Respondent acknowledges notice of agency action pursuant to Utah Code § 63G-4-201; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code § 63G-4-203; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

4. Respondent knows of its right to be represented by legal counsel and waives this right by either having sought the advice of legal counsel or by having voluntarily chosen not to do so.

5. This signed Stipulation and the signed and adopted Order by both the Insurance Commissioner and the Title and Escrow Commission, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

6. If an administrative hearing were held, the Department could introduce evidence that would support the Findings of Fact presented below; therefore, the Findings of Fact and Conclusions of Law presented below are hereby agreed to.

7. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter addressed herein.

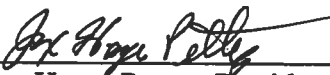
8. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.

9. Respondents enter into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.



10. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

Dated this 23<sup>rd</sup> day of SEPTEMBER, 2014.

  
Jax Hayes Pettey, ~~President~~ *MANAGER*  
1<sup>st</sup> Liberty Title, LC

Dated this 29<sup>th</sup> day of Sept., 2014.

  
Gary Josephson, Assistant Attorney General  
Attorney for Utah Insurance Department

Based upon the foregoing Stipulation and Department file, the Presiding Officer makes the following Findings of Fact:

**FINDINGS OF FACT**

1. In February, 2014, the Department's investigation of this matter was initiated pursuant to a complaint, alleging that Respondent had issued an owner's policy premium at a discounted rate.
2. On March 24, 2014, a Department investigator requested from Respondent the HUD-1 for the property listed in the complaint.
3. On March 26, 2014, In response to a Department request for information,

Respondent's agent, who conducted the closing in question, emailed to the Department a statement regarding the discount given. According to Department records, this agent had not been properly associated to Respondent.

4. On May 13, 2014, Respondent was audited. The investigator requested the number of escrow closings conducted from February 28, 2011 through May 13, 2014 and a list of favors, reduced rates, and/or rebates offered to Innova Reality and M&H Real Estate during that time period.

5. Respondent's reported that 989 closings had been conducted from February 28, 2011 through May 13, 2014, and 49 closings had been conducted with Innova Realty and M&H Real Estate. Respondent reported that six closings were issued at a reduced rate.

6. The Department's investigation also found that Respondent had not filed its escrow rates with the Department.

7. Respondent was cooperative and helpful during the audit and took full responsibility for the violations.

8. The Department and Respondent have agreed to the imposition of the following administrative penalties:

- (a) Respondent is to pay a forfeiture in the amount of \$9,000.00 in six consecutive monthly payments of \$1,500.00 beginning November 1, 2014;
- (b) Respondent is to be placed on probation until November 1, 2015, with the terms of probation being that Respondent will pay the full forfeiture and not violate any further Utah insurance laws; and
- (c) On or before December 1, 2014, Respondent shall submit to the Department a comprehensive business plan outlining specific policies and procedures with regards to its license, associations, and marketing practices ensuring compliance with Utah law.

Based upon the foregoing Stipulation and Findings of Fact, the Administrative Law Judge enters the following Conclusions of Law:

### **CONCLUSIONS OF LAW**

1. Utah Code Section 31A-19a-209 requires every title insurance agency and producer to file with the commissioner a schedule of escrow charges for services performed in connection with the issuance of policies of title insurance, and to file any changes to the schedule of charges. Respondent violated this rule by not filing its required schedule of escrow changes.
2. Utah Code Section 31A-23a-402 prohibits a title insurer or producer from giving directly or indirectly, as an inducement for obtaining business, a rebate, reduction, or abatement of any rate or charge incident to the issuance of title insurance. In violation of Section 31A-23a-402, Respondent charged a reduced premium rate on six occasions.
3. Utah Code Section 31A-23a-302 requires a title agency to designate with the Department any individual acting on the agency's behalf. Respondent violated this rule by first failing to designate an escrow agent who conducted at least one closing on its behalf and then by failing to terminate the association when that individual was no longer an employee.
4. Based on the facts and applicable laws, the proposed administrative forfeiture is appropriate.

### **RECOMMENDED ORDER**

IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. Respondent, 1<sup>st</sup> Liberty Title, LC, is assessed an administrative forfeiture in the amount of \$9,000.00 to be paid in six consecutive monthly payments of \$1,500.00, beginning

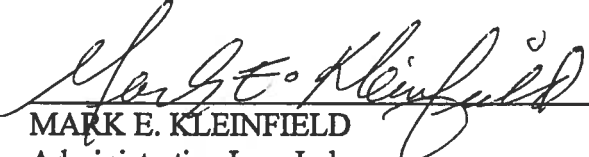
November 1, 2014.

2. Respondent is placed on probation until November 1, 2015. The terms of probation are that Respondent shall make full and timely payments of the forfeiture amount and shall have no further violations of Utah insurance laws and rules.

3. Before December 1, 2014, Respondent shall submit a comprehensive business plan outlining specific procedures and policies regarding its license, associations, and marketing practices, ensuring future compliance with Utah insurance laws and Department rules.

DATED this 29<sup>th</sup> day of September, 2014.

TODD E. KISER  
Insurance Commissioner

  
MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department

**ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY**

By a vote of \_\_\_\_\_ to \_\_\_\_\_, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended above.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
JEFFERY D. WIENER, Chairman  
Title and Escrow Commission

### **NOTIFICATION TO RESPONDENT**

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

GARY D. JOSEPHSON #5299  
Assistant Attorney General  
SEAN D. REYES #7969  
Attorney General  
Attorneys for Utah Insurance Department  
160 East 300 South, Fifth Floor  
PO Box 140874  
Salt Lake City, UT 84114  
Telephone: 801-366-0375  
Facsimile: 801-366-0378

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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

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UTAH INSURANCE DEPARTMENT,

Complainant,

v.

LESLEY ANN ULIBARRI  
License # 447789  
6925 S. Union Park Center, Suite 400  
Midvale, UT 84047

Respondent.

**STIPULATION AND ORDER**

Docket No. 2014-076 PC

Enf. Case No. 3512

Mark E. Kleinfield  
Administrative Law Judge

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**STIPULATION**

The Utah Insurance Department ("Department"), by and through its legal counsel, and Lesley Ann Ulibarri, a Utah licensed title insurance producer ("Respondent"), hereby stipulate and agree as follows:

1. Respondent is an active Utah licensed title insurance producer authorized to do business in the state of Utah under License No. 447789. Respondent's business address is 6925 Union Park Center, Suite 400, Midvale, UT 84047.

2. The Department has jurisdiction over the parties and subject matter of this administrative action.

3. Respondent acknowledges notice of agency action pursuant to Utah Code § 63G-4-201; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code § 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.

4. Respondent knows of her right to be represented by legal counsel and waives this right by either having sought the advice of legal counsel or by having voluntarily chosen not to do so.

5. This signed Stipulation and the signed and adopted Order by both the Commissioner and the Title and Escrow Commission, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.

6. If an administrative hearing were held, the Department could offer evidence that would support the Findings of Fact presented below; therefore, the Findings of Fact and Conclusions of Law presented below are accepted by the parties.

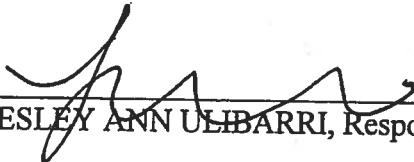
7. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.

8. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.

9. Respondents enter into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.

10. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

Dated this 29 day of September, 2014.

  
\_\_\_\_\_  
LESLEY ANN ULIBARRI, Respondent

Dated this 30<sup>th</sup> day of September, 2014.

  
\_\_\_\_\_  
UTAH DEPARTMENT OF INSURANCE  
Gary D. Josephson, Assistant Attorney General

Based upon the foregoing Stipulation and Department file, the Presiding Officer makes the following Findings of Fact:

**FINDINGS OF FACT**

1. The Department investigation of this matter was initiated in February, 2014, regarding possible violations by Respondent of the dual licensing statute and rule.
2. The investigation determined that Respondent was an active real estate licensee with the real estate license expiration date of March 31, 2014.
3. Records of real estate transactions conducted by Respondent were obtained from the Department of Real Estate and records of Respondent's title business transactions were obtained from Magellan Title, her employer.
4. It was determined that Respondent conducted two real estate transactions as a dual licensee without permission from the Commissioner.



5. Respondent and her employer were cooperative during the investigation and took responsibility for her actions. Respondent has since allowed her real estate license to lapse.

6. The Department and Respondent have agreed to imposition of administrative penalties as follows:

(a) Respondent is to pay a forfeiture in the amount of \$2,500.00;

(b) Respondent is to be placed on supervised probation for 12 months, supervised by Louie Hamner, President of Magellan Title. The escrow files of Respondent shall be monitored and Mr. Hamner will present a quarterly report to the Department which will include all activities related to escrow closings.

(c) A random sampling of HUD-1 documents will be chosen by the Department each quarter.

(d) The first report shall be submitted 90 days following entry of the Order and every 90 days thereafter.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

#### **CONCLUSIONS OF LAW**

1. Utah Code Section 31A-2-405 and Administrative Rule R 592-5-4 addresses (a) dual licensed title licensees' requirement for approval of the Commissioner in order to conduct title insurance business; (b) the findings required before approval is given; and (c) the penalties for not obtaining such approval.

2. Respondent violated the above referenced insurance laws by conducting two real

estate transactions as a dual licensee without permission from the Insurance Commissioner.

3. The proposed administrative forfeiture of \$2,500.00; supervised probation for a period of 12 months; and the requirement that quarterly reports be submitted to the Department are appropriate in this matter.

### RECOMMENDED ORDER


IT IS RECOMMENDED THAT THE TITLE AND ESCROW COMMISSION IMPOSE THE FOLLOWING PENALTY:

1. Respondent, Lesley Ann Ulibarri shall be assessed an administrative forfeiture in the amount of \$2,500.00 to be paid within 30 days of the date of the full signing of the Commission's Order.

2. Respondent shall be placed on supervised probation for 12 months. Respondent will be supervised by Louie Hamner, President of Magellan Title. The escrow files of Respondent shall be monitored and Mr. Hamner will present a quarterly report to the Department which will include all activities related to escrow closings. A random sampling of HUD-1 documents will be chosen by the Department each quarter. The first report shall be submitted 90 days following entry of the Order and every 90 days thereafter.

DATED this 6<sup>th</sup> day of October, 2014.

TODD E. KISER  
Insurance Commissioner

  
MARK E. KLEINFELD  
Administrative Law Judge  
Utah Insurance Department

**ADOPTION OF RECOMMENDED ORDER AND IMPOSITION OF PENALTY**

By a vote of \_\_\_\_\_ to \_\_\_\_\_, taken in open meeting on this date, the Title and Escrow Commission hereby adopts the recommended order of the presiding officer and imposes the penalty recommended above.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
JEFFERY D. WIENER, Chairman  
Title and Escrow Commission

**NOTIFICATION TO RESPONDENT**

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

HOME / PUBLICATIONS / ADMINISTRATIVE CODE

## UTAH ADMINISTRATIVE CODE

The Utah Administrative Code is the body of all effective administrative rules as compiled and organized by the Division of Administrative Rules (Subsection [63G-3-102\(5\)](#); see also Sections [63G-3-701](#) and [702](#)).

NOTE: For a list of rules that have been made effective since October 1, 2014, please see the [codification segue](#) page.

NOTE TO RULEFILING AGENCIES: Use the RTF version for submitting rule changes.

Download the [RTF file](#)

### **R592. Insurance, Title and Escrow Commission.**

#### **Rule R592-6. Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business.**

As in effect on October 1, 2014

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#### **R592-6-1. Authority.**

This rule is promulgated pursuant to Section 31A-2-404(2), which authorizes the Title and Escrow Commission (Commission) to make rules for the administration of the Insurance Code related to title insurance, including rules related to standards of conduct for a title insurer, agency title insurance producer or individual title insurance producer.

#### **R592-6-2. Purpose and Scope.**

(1) The purpose of this rule is to identify certain practices, which the Commission finds creates unfair inducements for the placement of title insurance business and as such constitute unfair methods of competition. These practices include the payment of expenses that are considered normal, customary, reasonable and recurring in the operation of a client of a title insurer, agency title insurance producer or individual title insurance producer.

(2) This rule applies to all title insurers, agency title insurance producers, individual title insurance producers and all employees, representatives and any other party working for or on behalf of said entities whether as a full time or part time employee or as an independent contractor.

#### **R592-6-3. Definitions.**

For the purpose of this rule the Commission adopts the definitions as set forth in Section 31A-1-301 and 31A-2-402, and the following:

- (1) "Bona fide real estate transaction" means:
- (a) a preliminary title report is issued to a seller or listing agent in conjunction with the listing of a property; or
  - (b) a commitment for title insurance is ordered, issued, or distributed in a purchase and sale transaction showing the name of the proposed buyer and the sales price, or in a loan transaction showing the proposed lender and loan amount.

(2) "Business Activities" shall include sporting events, sporting activities, musical and art events. In no case shall such business activities rise to the level of ceremonies, for example, award banquets, recognition events or similar activities sponsored by or for clients, or include travel by air, or other commercial transportation.

(3) "Business meals" shall include breakfast, brunch, lunch, dinner, cocktails and tips. In no case shall such business meals raise to the level of ceremonies, for example, awards banquets, recognition events or similar activities sponsored by or for clients.

(4)(a) "Client" means any person, or group, who influences, or who may influence, the placement of title insurance business or who is engaged in a business, profession or occupation of:

- (i) buying or selling interests in real property; and
- (ii) making loans secured by interests in real property.

(b) "Client" includes real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, developers, subdividers, attorneys, consumers, escrow companies and the employees, agents, representatives, solicitors and groups or associations of any of the foregoing.

(5) "Discount" means the furnishing or offering to furnish title insurance, services constituting the business of title insurance or escrow services for a total charge less than the amounts set forth in the applicable rate schedules filed pursuant to Section 31A-19a-203 or 31A-19a-209.

(6) "Official trade association publication" means:

- (a) a membership directory, provided its exclusive purpose is that of providing the distribution of an annual roster of the association's members to the membership and other interested parties; or
- (b) an annual, semiannual, quarterly or monthly publication containing information and topical material for the benefit of the members of the association.

(7) "Title insurance business" means the business of title insurance and the conducting of escrow.

(8) "Trade Association" means a recognized association of persons, a majority of whom are clients or persons whose primary activity involves real property.

#### **R592-6-4. Unfair Methods of Competition, Acts and Practices.**

In addition to the acts prohibited under Section 31A-23a-402, the Commission finds that providing or offering to provide any of the following benefits by parties identified in Section R592-6-2 to any client, either directly or indirectly, except as specifically allowed in Section R592-6-5 below, is a material and unfair inducement to obtaining title insurance business and constitutes an unfair method of competition.

(1) The furnishing of a title insurance commitment without one of the following:

- (a) sufficient evidence in the file of the title insurer, agency title insurance producer or individual title insurance producer that a bona fide real estate transaction exists; or
- (b) payment in full at the time the title insurance commitment is provided.

(2) The paying of any charges for the cancellation of an existing title insurance commitment issued by a competing organization, unless that commitment discloses a defect which gives rise to a claim on an existing policy.

(3) Furnishing escrow services pursuant to Section 31A-23a-406:

- (a) for a charge less than the charge filed pursuant to Section 31A-19a-209(5); or
- (b) the filing of charges for escrow services with the Utah Insurance Commissioner (commissioner), which are less than the actual cost of providing the services.

(4) Waiving all or any part of established fees or charges for services which are not the subject of rates or escrow charges filed with the commissioner.

(5) Deferring or waiving any payment for insurance or services otherwise due and payable, including a series of real estate transactions for the same parcel of property.

(6) Furnishing services not reasonably related to a bona fide title insurance, escrow, settlement, or closing transaction, including non-related delivery services, accounting assistance, or legal counseling.

(7) The paying for, furnishing, or waiving all or any part of the rental or lease charge for space which is occupied by any client.

(8) Renting or leasing space from any client, regardless of the purpose, at a rate which is excessive or inadequate when compared with rental or lease charges for comparable space in the same geographic area, or paying rental or lease charges based in whole or in part on the volume of business generated by any client.

(9) Furnishing any part of a title insurer's, title agency title insurance producer's, or individual title insurance producer's facilities, for example, conference rooms or meeting rooms, to a client or its trade association, for anything other than the providing of escrow or title services, or meetings related to such, without receiving a fair rental or lease charge comparable to other rental or lease charges for facilities in the same geographic area.

(10) The co-habitation or sharing of office space with a client of a title insurer, agency title insurance producer, or individual title insurance producer.

(11) Furnishing all or any part of the time or productive effort of any employee of the title insurer, agency title insurance producer or individual title insurance producer, for example, secretary, clerk, messenger or escrow officer, to any client.

(12) Paying for all or any part of the salary of a client or an employee of any client.

(13) Paying, or offering to pay, either directly or indirectly, salary, commissions or any other consideration to any employee who is at the same time licensed as a real estate agent or real estate broker or as a mortgage lender or mortgage company subject to 31A-2-405 and R592-5.

(14) Paying for the fees or charges of a professional, for example, an appraiser, surveyor, engineer or attorney, or for the pre-payment of fees and charges of a client or party to the transaction, for example subordination, loan or HOA payoff request fees, whose services are required by any party or client to structure or complete a particular transaction. This subsection does not include the pre-payment of overnight delivery/mail fees that will be recovered through closing of a transaction.

(15) Sponsoring, cosponsoring, subsidizing, contributing fees, prizes, gifts, food or otherwise providing anything of value for an activity of a client, except as allowed under Subsection R592-6-5(6). Activities include open houses at homes or property for sale, meetings, breakfasts, luncheons, dinners, conventions, installation ceremonies, celebrations, outings, cocktail parties, hospitality room functions, open house celebrations, dances, fishing trips, gambling trips, sporting events of all kinds, hunting trips or outings, golf or ski tournaments, artistic performances and outings in recreation areas or entertainment areas.

(16) Sponsoring, cosponsoring, subsidizing, supplying prizes or labor, except as allowed under Subsection R592-6-5(2) or otherwise providing things of value for promotional activities of a client. Title insurers, agency title insurance producers or individual title insurance producers may attend activities of a client if there is no additional cost to the title insurer, agency title insurance producer or individual title insurance producer, other than their own entry fees, registration fees, meals, and provided that these fees are no greater than those charged to clients or others attending the function.

(17) Providing gifts or anything of value to a client in connection with social events such as birthdays or job promotions. A letter or card in these instances will not be interpreted as providing a thing of value.

(18) Furnishing or providing access to the following, even for a cost:

- (a) building plans;
- (b) construction critical path timelines;
- (c) "For Sale by Owner" lists;
- (d) surveys;
- (e) appraisals;
- (f) credit reports;
- (g) mortgage leads for loans;
- (h) rental or apartment lists; or
- (i) printed labels.

(19) Newsletters cannot be property specific or cannot highlight specific customers.

(20) A title insurer, agency title insurance producer or individual title insurance producer cannot provide a client access to any software accounts that are utilized to access real property information that the insurer, agency title insurance producer or individual title insurance producer pays for, develops, or pays to maintain. Closing software is exempt as long as it is used for a specific closing.

(21)(a) A title insurer, agency title insurance producer or individual title insurance producer cannot provide title or escrow services on real property where an existing or anticipated investment loan or financing has been or will be provided by said title insurer, agency title insurance producer or individual title insurance producer, including its owners or employees.

(b) Subsection (21)(a) does not apply to such transactions involving seller financing.

(22) Paying for any advertising on behalf of a client.

(23) Advertising jointly with a client on subdivision or condominium project signs, or signs for the sale of a lot or lots in a subdivision or units in a condominium project. A title insurer, agency title insurance producer or individual title insurance producer may advertise independently that it has provided title insurance for a particular subdivision or condominium project but may not indicate that all future title insurance will be written by that title insurer, agency title insurance producer or individual title insurance producer.

(24) Advertisements may not be placed in a publication, including an internet web page and its links, that is hosted, published, produced for, distributed by or on behalf of a client.

(25) A donation may not be made to a charitable organization created, controlled or managed by a client.

(26) A direct or indirect benefit, provided to a client which is not specified in Section R592-6-5 below, will be investigated by the department for the purpose of determining whether it should be defined by the Commission as an unfair inducement under Section 31A-23a-402(8).

(27) Title insurers, agency title insurance producers or individual title insurance producers who have ownership in, or control of, other business entities, including I.R.C. Section 1031 qualified intermediaries and



escrow companies, may not use those other business entities to enter into any agreement, arrangement, or understanding or to pursue any course of conduct, designed to avoid the provisions of this rule.

**R592-6-5. Permitted Advertising, Business Entertainment, and Methods of Competition.**

Except as specifically prohibited in Section R592-6-4 above, the following are permitted:

(1) In addition to complying with the provisions of 31A-23a-402 and R590-130, Rules Governing Advertisements of Insurance, advertisement by title insurers, agency title insurance producers or individual title insurance producers must comply with the following:

(a) the advertisement must be purely self-promotional; and

(b) advertisement in official trade association publications are permissible as long as any title insurer, agency title insurance producer or individual title insurance producer has an equal opportunity to advertise in the publication and at the standard rates other advertisers in the publication are charged.

(2) A title insurer, agency title insurance producer or individual title insurance producer may donate time to serve on a trade association committee and may also serve as an officer for the trade association.

(3) A title insurer, agency title insurance producer or individual title insurance producer may have two self-promotional open houses per calendar year for each of its owned or occupied facilities, including branch offices. The title insurer, agency title insurance producer or individual title insurance producer may not expend more than \$15 per guest per open house. The open house may take place on or off the title insurer's, agency title insurance producer's or individual title insurance producer's premises but may not take place on a client's premises.

(4) A donation to a charitable organization must:

(a) not be paid in cash;

(b) if paid by a negotiable instrument, be made payable only to the charitable organization;

(c) be distributed directly to the charitable organization; and

(d) not provide any benefit to a client.

(5) A title insurer, agency title insurance producer or individual title insurance producer may distribute self-promotional items having a value of \$5 or less to clients, consumers and members of the general public. These self-promotional items shall be novelty gifts which are non-edible and may not be personalized or bear the name of the donee. Self-promotional items may only be distributed in the regular course of business. Self-promotional items may not be given to clients or trade associations for redistribution by these entities.

(6) A title insurer, agency title insurance producer or individual title insurance producer may make expenditures for business meals or business activities on behalf of any person, whether a client or not, as a method of advertising, if the expenditure meets all the following criteria:

(a) the person representing the title insurer, agency title insurance producer or individual title insurance producer must be present during the business meal or business activity;

(b) there is a substantial title insurance business discussion directly before, during or after the business meal or business activity;

(c) the total cost of the business meal, the business activity, or both is not more than \$100 per person, per day;

(d) no more than three individuals from an office of a client may be provided a business meal or business activity by a title insurer, agency title insurance producer or individual title insurance producer in a single day; and

(e) the entire business meal or business activity may take place on or off the title insurer's, agency title insurance producer's or individual title insurance producer's premises, but may not take place on a client's premises.

(7) A title insurer, agency or producer may conduct continuing education programs that are approved by the appropriate regulatory agency, under the following conditions:

(a) the continuing education program shall address only title insurance, escrow or other topics directly related thereto;

(b) the continuing education program must be of at least one hour in duration;

(c) for each hour of continuing education, \$15 or less per person may be expended, including the cost of meals and refreshments; and

(d) no more than one such continuing education program may be conducted at the office of a client per calendar quarter.

(8) A title insurer, agency title insurance producer or individual title insurance producer may acknowledge a wedding, birth or adoption of a child, or funeral of a client or members of the client's immediate family with flowers or gifts not to exceed \$75.

(9) Any other advertising, business entertainment, or method of competition must be requested in writing and approved in advance and in writing by the Commission.

**R592-6-6. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule 45 days from the effective date of the rule.

**R592-6-7. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY**

title insurance

**Date of Enactment or Last Substantive Amendment**

August 9, 2011

**Notice of Continuation**

June 13, 2014

**Authorizing, Implemented, or Interpreted Law**

31A-2-404

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ADDITIONAL INFORMATION

CONTACT

For questions regarding the content or application of rules under Title R592, please contact the promulgating agency (Insurance, Title and Escrow Commission). A list of agencies with links to their homepages is available at <http://www.utah.gov/government/agencylist.htm> or from <http://www.rules.utah.gov/contact/agencycontacts.htm>.